



FEDERAL ELECTION COMMISSION

Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAR 18 2011

Michael Chernus

San Pedro, CA 90731

RE: MUR 6388
Mattie Fein
Mattie Fein for Congress

Dear Mr. Chernus:

On March 17, 2011, the Federal Election Commission reviewed the allegations in your complaint and found that on the basis of the information provided in your complaint, and information provided by Mattie Fein, there is no reason to believe that Mattie Fein, Mattie Fein for Congress, or Kelly Lawlor, in her official capacity as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("Act"). Accordingly, on March 17, 2011, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analyses, which more fully explain the Commission's findings, are enclosed.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact Jack Gould, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Christopher Hughey
Acting General Counsel

BY: Mark Allen
Assistant General Counsel

Enclosures
Factual and Legal Analyses

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FACTUAL AND LEGAL ANALYSIS

In the Matter of)
) **MUR 6388**
Mattie Fein for Congress and)
Kelly Lawler, in her official capacity as treasurer)

This matter was generated by a complaint filed with the Federal Election Commission by Michael Chernus. See 2 U.S.C. § 437g(a)(1).

Complainant alleges that Mattie Fein, a candidate for the U.S. House of Representatives from California's 36th Congressional District, may have not had the financial funds necessary to contribute and loan \$108,222 to her principal campaign committee, Mattie Fein for Congress ("Committee") during the 2010 election cycle. Complainant bases his allegation on Ms. Fein's financial disclosure statement filed with the U.S. House of Representatives, which does not reflect sufficient personal assets and income to support her contributions and loans to the Committee.

Ms. Fein's financial disclosure statement indicates that during 2009 she received a
honorarium from The Litchfield Group, Inc. and income from a marital separation
ment in the range of \$15,001-\$50,000. For 2010, Ms. Fein again disclosed income
marital separation agreement in the range of \$15,001-\$50,000. In her sworn
se to the complaint, Ms. Fein averred that pursuant to her separation agreement
rue Fein, she received \$20,000 per month and that she "inadvertently checked an

1 erroneous box" on her financial disclosure form. According to Ms. Fein, "the 'correct
2 box' . . . should have indicated receipt of between \$100,000-\$1,000,000 from the
3 separation agreement during 2009 and 2010." Ms. Fein's former husband, Bruce Fein,
4 corroborated her statement in a sworn affidavit: "During 2009 and 2010, I paid Mattie
5 Fein \$20,000 per month pursuant to a separation agreement."

6 **IV. LEGAL ANALYSIS**
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8 The Federal Election Campaign Act of 1971, as amended ("Act"), provides that
9 no person shall make contributions to any candidate and his authorized political
10 committee with respect to any election for Federal office which in the aggregate,
11 exceeded \$2,400 in the 2010 election cycle. 2 U.S.C. § 441a(a)(1)(A). In addition, the
12 Act provides that no candidate, officer, or employee of a political committee shall
13 knowingly accept any contribution that exceeds the contribution limits. 2 U.S.C.
14 § 441a(f).

15 Commission regulations provide that candidates for Federal office may make
16 unlimited expenditures from personal funds, including contributions to the candidate's
17 principal campaign committee. *See* 11 C.F.R. § 110.10; Advisory Opinion 1984-60 (W.
18 Patrick Mulloy). The Act defines "personal funds" as, *inter alia*, "income received
19 during the current election cycle of the candidate" 2 U.S.C. § 431(26)(B); *see also*
20 11 C.F.R. § 100.33(b). Spousal support is treated as income for tax purposes.
21 *See* 26 U.S.C. § 71; I.R.C. § 71. Mattie Fein received regular spousal support payments
22 from her former husband pursuant to a formal separation agreement, and therefore, it is
23 appropriate to treat those payments as "personal funds" under the Act.

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1 Based on the sworn statements made by Mattie and Bruce Fein, it appears that
2 Ms. Fein had income totaling \$483,000 (\$20,000 x 24 months + \$3,000 honorarium)
3 during the 2010 election cycle. Thus, Ms. Fein had sufficient income to cover the
4 \$108,222 in contributions and loans she gave to the Committee. Moreover, Complainant
5 does not provide any information about another source of funds that may have been used
6 to make the contributions and loans. Rather, the allegations seem to rest solely on the
7 observation that Ms. Fein's financial disclosure statement did not reveal enough personal
8 assets and income to fund the contributions and loans.

9 Therefore, there is no reason to believe that Mattie Fein for Congress and
10 Kelly Lawler, in her official capacity as treasurer, violated 2 U.S.C. § 441a(f).

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 In the Matter of)
7) MUR 6388
8 Mattie Fein)
9

10 **I. GENERATION OF MATTER**

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12 This matter was generated by a complaint filed with the Federal Election
13 Commission by Michael Chernus. See 2 U.S.C. § 437g(a)(1).

14 **II. INTRODUCTION**

15 Complainant alleges that Mattie Fein, a candidate for the U.S. House of
16 Representatives from California's 36th Congressional District, may have not had the
17 personal funds necessary to contribute and loan \$108,222 to her principal campaign
18 committee, Mattie Fein for Congress ("Committee") during the 2010 election cycle.
19 Complainant bases his allegation on Ms. Fein's financial disclosure statement filed with
20 the U.S. House of Representatives, which does not reflect sufficient personal assets and
21 income to support her contributions and loans to the Committee.

22
23 **III. FACTUAL BACKGROUND**

24
25 Ms. Fein's financial disclosure statement indicates that during 2009 she received a
26 \$3,000 honorarium from The Litchfield Group, Inc. and income from a marital separation
27 agreement in the range of \$15,001-\$50,000. For 2010, Ms. Fein again disclosed income
28 from a marital separation agreement in the range of \$15,001-\$50,000. In her sworn
29 response to the complaint, Ms. Fein averred that pursuant to her separation agreement
30 with Bruce Fein, she received \$20,000 per month and that she "inadvertently checked an

1 erroneous box" on her financial disclosure form. According to Ms. Fein, "the 'correct
2 box' . . . should have indicated receipt of between \$100,000-\$1,000,000 from the
3 separation agreement during 2009 and 2010." Ms. Fein's former husband, Bruce Fein,
4 corroborated her statement in a sworn affidavit: "During 2009 and 2010, I paid Mattie
5 Fein \$20,000 per month pursuant to a separation agreement."

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16 unlimited expenditures from personal funds, including contributions to the candidate's
17 principal campaign committee. See 11 C.F.R. § 110.10; Advisory Opinion 1984-60 (W.
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20 11 C.F.R. § 100.33(b). Spousal support is treated as income for tax purposes.
21 See 26 U.S.C. § 71; I.R.C. § 71. Mattie Fein received regular spousal support payments
22 from her former husband pursuant to a formal separation agreement, and therefore, it is
23 appropriate to treat those payments as "personal funds" under the Act.

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1 Based on the sworn statements made by Mattie and Bruce Fein, it appears that
2 Ms. Fein had income totaling \$483,000 (\$20,000 x 24 months + \$3,000 honorarium)
3 during the 2010 election cycle. Thus, Ms. Fein had sufficient income to cover the
4 \$108,222 in contributions and loans she gave to the Committee. Moreover, Complainant
5 does not provide any information about another source of funds that may have been used
6 to make the contributions and loans. Further, the allegation seems to rest solely on the
7 observation that Ms. Fein's financial disclosure statement did not reveal enough personal
8 assets and income to fund the contributions and loans.

9 Therefore, there is no reason to believe that Mattie Fein violated 2 U.S.C.
10 § 441a(f).

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